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Foreword

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DEFENDING ALLEGATIONS OF SEXUAL CHILD ABUSE IN MARYLAND

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FOREWORD

Today, as a society, we are much more aware of the terrible evil of sexual child abuse than we were 30 years ago. With the government's compelling interest in protecting our children, prosecutors zealously pursue child sexual predators. Unfortunately, this zealotry sometimes leads to the prosecution of innocent people. No offense — not even murder or rape — seems to carry with it the same degree of stigma as sexual child abuse. In fact, individuals who are accused of sexual child abuse are considered such pariahs that often they find it difficult to even obtain competent counsel.

For attorneys who concentrate their practice in the defense of criminal charges, the "presumption of innocence" sometimes seems like a fiction. Nowhere is that statement truer than in the defense of allegations of sexual child abuse. In *Defending Allegations of Sexual Child Abuse in Maryland*, Tom Bernier — my friend and my law student of more than two decades ago — has filled an important void for the criminal defense bar.

Mr. Bernier's experience in this unique area of law begins to show in the very first chapter with topics such as "Testing and Samples," "Polygraph Testing and Diagnostic Evaluation," "Alerting the Client," and "Managing the Client's Stress Levels." Then, like a chess player planning moves well in advance, he takes the reader through "The Initial Client Meeting," "Before Charges are Filed," "Reviewing the Charging Documents," "Pretrial Discovery," "Pretrial Filings," "Challenging the State's Case," "Presenting the Defense Case," and "Post-Trial Issues." Mr. Bernier also addresses problems associated with defending both criminal and administrative charges, as well as defending criminal charges at both the state and federal levels.

Mr. Bernier does not stop there. His 212-page text is followed by a 176-page, 26-part Appendix. The Appendix includes forms, e.g., "Defendant's Demand for Bill of Particulars" and "Sample Voir Dire"; guidelines, e.g., "Interviewing Child Witnesses and Victims of Sexual Abuse" and "A Practical Guide for Expert Witnesses"; references, e.g., "Anatomical Dolls References" and "False Memory References"; and specialized topics, e.g., "Sexual Allegations in Divorce."

Lest we think that Mr. Bernier's text is only for the defense bar, I suggest that it will also be used as a hornbook on sexual child abuse cases by judges and prosecutors. Two chapters of the text are devoted to the history and current status of the law of sexual child abuse in Maryland. Moreover, once this book is published, if a prosecutor wants to know how a competent defense counsel will handle a sexual child abuse case, that prosecutor needs a copy of this book.

Defending Allegations of Sexual Child Abuse in Maryland

Tom Bernier has performed a great service for Maryland's criminal practitioner and judiciary by providing a straightforward, easy-to-comprehend, no-nonsense primer on defending sexual child abuse cases — the legal, practical, strategic, and specialized nature of this type work.

Professor Byron L. Warnken

Mr. Bernier's experience in this unique area of law begins to show in the very first chapter with topics such as "Testing and Samples," "Polygraph Testing and Diagnostic Evaluation," "Altering the Case," and "Managing the Client's Expectations." Then, like a chess player planning moves well in advance, he takes the reader through "The Initial Client Meeting," "Before Charges are Filed," "Reviewing the Charging Documents," "Preliminary Discovery," "Preliminary Filings," "Challenging the State's Case," "Presenting the Defense Case," and "Post-Trial Issues." Mr. Bernier also addresses problems associated with defending both criminal and administrative charges, as well as defending criminal charges at both the state and federal levels.

Mr. Bernier does not stop there. His 315-page text is followed by a 176-page 36-part Appendix. The Appendix includes forms, e.g., "Defendant's Demand for Bill of Particulars" and "Sample Voir Dire," guidelines, e.g., "Interviewing Child Witnesses and Victims of Sexual Abuse" and "A Practical Guide for Expert Witnesses," references, e.g., "Anatomical Dolls Experiments" and "False Memory Research," and specialized topics, e.g., "Sexual Allegations in Divorce."

I can't think that Mr. Bernier's text is only for the defense bar. I suspect that it will also be used as a textbook on sexual child abuse cases by judges and prosecutors. Two chapters of the text are devoted to the history and current status of the law of sexual child abuse in Maryland. Moreover, once this book is published, the law of sexual child abuse in Maryland will be a much more accessible and understandable text. It is a prosecutor's text, that prosecutor needs a copy of this book.